

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Carl Green, Assignee of Kathlyn Gray,

Civ. No. 20-798 (JRT/BRT)

Plaintiff,

v.

**REPORT AND
RECOMMENDATION**

Chamberlain Home Owners Association,

Defendant.

Plaintiff Carl Green attempted to pay the filing fee for this action with a check that was later deemed to be of insufficient funds. (*See* Doc. No. 3.) On April 17, 2020, the Clerk of Court directed Green to either submit the required filing fee or apply for *in forma pauperis* (“IFP”) status within 14 days. (*Id.*) That deadline has now passed, yet Green has not paid the filing fee or applied to proceed IFP. In fact, Green has not communicated with the Court about this case at all since commencing this action.

This matter cannot go forward without payment of the filing fee or the granting of IFP status. Green has been put on notice of the filing-fee requirement but has not yet submitted the fee or established that he is financially unable to pay the fee. Accordingly, this Court now recommends that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to

dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute, and Defendant's Motion to Dismiss (Doc. No. 5) be **DENIED AS MOOT**.

Dated: May 15, 2020

s/ Becky R. Thorson
BECKY R. THORSON
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).